

applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.


(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

28 U.S.C. § 2244(d).

The record shows that petitioner entered a plea of guilty in CRF-1999-7B and was sentenced on January 27, 1999. He did not seek to timely withdraw his guilty plea or seek a direct appeal to the Oklahoma Court of Criminal Appeals, so the conviction became final on February 6, 1999, ten days after entry of the Judgment and Sentence. *See* Rule 4.2, *Rules of the Court of Criminal Appeals*, Okla. Stat. tit. 22, Ch.18, App.; Okla. Stat. tit. 22, § 1051. His deadline for initiating a habeas corpus action, therefore, was February 6, 2000. This petition, filed on November 3, 2008, was untimely. He alleges he filed a motion to withdraw his plea to the Creek County District Court, but never received a response. He has provided nothing, however, to substantiate this claim.

ACCORDINGLY, respondent's motion to dismiss time barred petition [Docket #6] is GRANTED, and this action is, in all respects, DISMISSED.

IT IS SO ORDERED this 16th day of April 2009.


RONALD A. WHITE
UNITED STATES DISTRICT JUDGE